

**HEFNER STARK & MAROIS, LLP**

Thomas P. Griffin Jr., Esq. (SBN 155133)

tgriffin@hsmllaw.com

2150 River Plaza Drive, Suite 450

Sacramento, CA 95833

Telephone: 916.925.6620

Facsimile: 916.925.1127

**ABRAMS, FENSTERMAN, FENSTERMAN,  
EISMAN, FORMATO, FERRARA,  
WOLF & CARONE, LLP**

Seth L. Berman, Esq. (*pro hac vice admission to be requested*)

sberman@abramslaw.com

3 Dakota Drive, Suite 300

Lake Success, NY 11042

Telephone: 516.328.2300

Facsimile: 516.328.6638

Attorneys for Plaintiff COLONIZE MEDIA, INC.

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA**

COLONIZE MEDIA, INC.,

Plaintiff,

v.

TATE A. PALMER, TRIWOLF  
MEDIA, LLC and TANGO MULTI  
MEDIA PRODUCTIONS, LLC,

Defendants.

**Case No. 1:20-cv-01053-DAD-SAB**

**PLAINTIFF COLONIZE MEDIA,  
INC.'S APPLICATION TO SERVE  
DEFENDANT TATE A. PALMER  
BY PUBLICATION**

Complaint Filed: July 29, 2020

Plaintiff Colonize Media, Inc., ("Colonize") files this Application to serve Tate A. Palmer ("Palmer") by Publication, as follows:

1. Tango's and Triwolf's Refusal to Provide Palmer's Address.

Colonize filed this lawsuit against Palmer, Triwolf Media, LLC ("Triwolf") and Tango Multi Media Productions, LLC ("Tango").

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1 Early in this lawsuit, counsel for Tango and Triwolf represented that Palmer  
2 served as an employee of Triwolf and an independent contractor for Tango. This  
3 confirmed the information from Palmer's LinkedIn profile in August in which he  
4 stated that he was the Chief Operating Officer of Triwolf.

5 This was also confirmed in the parties Joint Rule 26 Report filed on January 19,  
6 2021, as Dkt. No. 23 in which Triwolf and Tango acknowledged that Palmer was an  
7 employee of Tango. (See Dkt. No. 23, p.4:3.) Subsequently, counsel for Tango and  
8 Triwolf asserted that Palmer serves only as an independent contractor for Tango and is  
9 not an officer or employee of either.

10 In numerous emails and phone calls, counsel for Colonize requested that counsel  
11 for Tango and Triwolf provide Palmer's address. In a phone call on November 20,  
12 2020, counsel for Tango and Triwolf informed counsel for Colonize that, upon the  
13 receipt of interrogatories regarding Palmer's address, counsel for Tango and Triwolf  
14 would reply to such interrogatories within one (1) working day with Palmer's address.  
15 On that same day, November 20, 2020, Colonize, through counsel, served (by email)  
16 its first set of interrogatories on Tango and Triwolf, which consisted of just the two  
17 following interrogatories:

- 18 1. Identify the current residential address that you have for Tate A. Palmer.
- 19 2. Identify all prior residential addresses for Tate A. Palmer.

20 On November 24, 2020, counsel for Colonize again sent the first set of  
21 interrogatories to counsel for Tango and Triwolf asking for the promised response with  
22 Palmer's addresses.

23 On December 1, 2020, counsel for Tango and Triwolf finally replied asking for  
24 a call on the matter on December 3, 2020. During that call, in which two lawyers for  
25 Tango and Triwolf participated, counsel for Colonize was informed that the requested  
26 addresses would not be provided for three reasons: one, Palmer had requested that his  
27 address not be provided to Colonize; two, Palmer's address consisted of confidential  
28 information; and three, the interrogatories were premature since the Rule 26



1 conference had not occurred.

2 During the call on December 3, 2020, counsel for Tango and Triwolf relayed  
3 that Palmer claimed to have counsel. Counsel for Colonize asked that Palmer confirm  
4 this and, if it was true, that Palmer should be asked to have his attorney contact counsel  
5 for Colonize. No attorney claiming to represent Palmer has contacted counsel for  
6 Colonize.

7 Thereafter, on December 8, 2020, counsel for Colonize sent an email to counsel  
8 for Tango and Triwolf asking whether the interrogatories would be answered within  
9 thirty (30) days of their service and noting that Rule 26 requires the disclosure of the  
10 “the name and, if known, the address and telephone number of each individual likely  
11 to have discoverable information...that the disclosing party may use to support its  
12 claims of defenses,...” FRCP 26(a)(1)(A)(i). Given the allegations in this case and his  
13 status as a named defendant, Palmer certainly falls within the category of an individual  
14 with discoverable information. This email was ignored.

15 The parties then turned their attention to efforts to globally resolve the issues in  
16 this case and three other federal cases involving Colonize, Triwolf, Tango and other  
17 parties.<sup>1</sup> While those efforts did not result in a global settlement, Colonize was able to  
18 enter into a settlement agreement and related agreements with the other parties, which  
19 resolved two of the other federal cases in their entirety and resolved certain claims in  
20 the third federal case between Colonize, Yellowcake, Inc. (another party aligned with  
21 Colonize and also represented by Colonize’s counsel) and those other parties.

22 Subsequently, in March of 2021, Colonize, Yellowcake, Triwolf and Tango  
23 entered into a settlement agreement and a related agreement which resolved the  
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25 <sup>1</sup> *Platino Records, Inc., v. Colonize Media, Inc., et al.*, Case No. 2:20-CV-3159-DSF-JPR, United States District Court for  
26 the Central District of California [with Yellowcake as a party]; *Yellowcake, Inc., v. Platino Records, et al.*, Case No. 1:20-  
27 cv-0792-AWI-SKO, United States District Court for the Eastern District of California; and *Yellowcake, Inc., v. Triwolf*  
28 *Media, LLC, et al.*, Case No. 1:20-cv-00981-AWI-SKO [with Yellowcake, Tango and others as parties].

1 remainder of the claims in Case No. 1:20-cv-00981 and resolved the claims between  
2 Colonize, Triwolf and Tango in this case, leaving Tate as the only defendant herein.

3 The Rule 26 conference in this lawsuit occurred on February 26, 2021.  
4 Following that conference, the Court issued a Scheduling Order (Dkt No. 26)  
5 obligating Colonize, Tango and Triwolf to provide their initial disclosures (pursuant to  
6 Rule 26(a)(1) on or before March 12, 2021.

7 Colonize, on the one hand, and Tango and Triwolf, on the other hand, settled  
8 their claims against each other, executed various documents to memorialize the  
9 settlement, and filed a Stipulation for Dismissal on April 2, 2021 (Dkt No. 27). On that  
10 same day, the Court terminated Tango and Triwolf as parties in this lawsuit (Dkt No.  
11 28).

12 After the Rule 26 conference, Colonize provided its initial disclosures to Tango  
13 and Triwolf. Conversely, Tango and Triwolf refused to provide its initial disclosures  
14 despite the Court's Scheduling Order. Specifically, counsel for Tango and Triwolf  
15 wrote to counsel for Colonize stating that, because his clients were settling, they would  
16 not be "participating in discovery."

17 The dismissal of Tango and Triwolf as defendants was set to occur (and actually  
18 did occur) after the deadline to provide the Rule 26 initial disclosures. As Palmer is a  
19 named defendant who is admittedly an independent contractor for Tango, Triwolf and  
20 Tango have knowledge of his address and would have included it in their initial  
21 disclosures if they had complied with the Scheduling Order. Instead, they refused to do  
22 so.

23 In coming to terms on the settlement agreement and related agreement between  
24 Colonize, Yellowcake, Triwolf and Tango, a principal of Triwolf and Tango relayed to  
25 a principal of Yellowcake that Palmer is in the office almost every day. The principal  
26 of Triwolf and Tango was referring to an office in the Los Angeles area. When the  
27 principal for Yellowcake asked for that address, the principal for Triwolf and Tango  
28 declined to provide it.



1           2.     Colonize's Efforts to Serve Palmer

2           Colonize has been diligent in its efforts to serve Palmer but has not yet been able  
3 to serve Palmer at three (3) addresses in the Los Angeles, California, area and an  
4 address in Austin, Texas.

5           One of the addresses in Los Angeles is a business address<sup>2</sup> and, when attempting  
6 service of Palmer there, the process server was informed that none of the defendants  
7 have been tenants at that location for a couple of years. The other two Los Angeles  
8 area addresses are residential addresses.<sup>3</sup> The process server attempted service at one  
9 of these addresses on six different days and attempted service at the other address on  
10 seven different days. The process servers attempted to communicate with nearby  
11 residents and searched for mailboxes and apartment managers to confirm Palmer's  
12 residency. These efforts were unsuccessful.

13           Colonize subsequently learned that Palmer may have been residing in Austin,  
14 Texas. Colonize hired a process server to attempt service on Palmer at a residential  
15 address in Austin, Texas.<sup>4</sup> Neighbors informed the process server that Palmer did not  
16 live there.

17           In reviewing certain social media pages, entity information from the Texas  
18 Secretary of State and other sites, Colonize had reason to believe that Palmer was  
19 residing in Austin, Texas, and possibly at the address previously identified. Colonize  
20 retained a second process server to attempt service on Palmer at that same address in  
21 Austin, Texas. This also proved unsuccessful.

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26 <sup>2</sup> 121 W. Lexington Ave, Glendale, CA 91203

27 <sup>3</sup> 5278 College View Avenue, Los Angeles, CA 90041 and 1208 Tennyson St., Manhattan Beach, CA, 90266

28 <sup>4</sup> 9508 Hopeland Dr., Austin, CA, 78749

1           3.     Contact with Tate.

2           This lawsuit and the others referenced herein concern the ownership of, and the  
3 right to distribute and otherwise exploit, various sound recordings and other assets.  
4 Following the execution of the settlement agreement and related agreement by  
5 Colonize, Yellowcake, Triwolf and Tango, representatives of those parties have been  
6 in contact with each other in an effort to resolve conflicting claims to the sound  
7 recordings and other assets. In that process, Tate, on behalf of Tango, has had email  
8 exchanges with representatives of Colonize and Yellowcake.

9           4.     Subpoena. Counsel for Colonize has issued subpoenas to Triwolf and  
10 Tango, since they are no longer parties to the lawsuit, seeking Palmer's address. The  
11 subpoenas should be served in the next few days.

12          5.     Service upon Tate by Publication is Appropriate. Rule 4(e)(1) permits an  
13 individual to be served in any manner authorized by state law. California Code of Civil  
14 Procedure Sections 415.50(a) and (b) reads as follows:

15               (a) A summons may be served by publication if upon affidavit it  
16 appears to the satisfaction of the court in which the action is  
17 pending that the party to be served cannot with reasonable  
18 diligence be served in another manner specified in this article and  
that either:

19               (1) A cause of action exists against the party upon whom service  
20 is to be made or he or she is a necessary or proper party to the  
action.

21               (2) The party to be served has or claims an interest in real or  
22 personal property in this state that is subject to the jurisdiction of  
23 the court or the relief demanded in the action consists wholly or  
in part in excluding the party from any interest in the property.

24               (b) The court shall order the summons to be published in a named  
25 newspaper, published in this state, that is most likely to give  
26 actual notice to the party to be served. If the party to be served  
27 resides or is located out of this state, the court may also order the  
28 summons to be published in a named newspaper outside this state  
that is most likely to give actual notice to that party. The order  
shall direct that a copy of the summons, the complaint, and the  
order for publication be forthwith mailed to the party if his or her



1 address is ascertained before expiration of the time prescribed for  
2 publication of the summons. Except as otherwise provided by  
3 statute, the publication shall be made as provided by Section  
4 6064 of the Government Code unless the court, in its discretion,  
orders publication for a longer period.

5 California Government Code Section 6064 provides that “publication of notice  
6 pursuant to this section shall be once a week for four successive weeks....The period  
7 of notice commences with the first day of publication and terminates at the end of the  
8 twenty-eighth day, including therein the first day.”

9 Colonize requested Palmer’s address from counsel for Triwolf and Tango by  
10 email and by phone. These requests were ignored. At the request of Triwolf and  
11 Tango, Colonize served interrogatories seeking Palmer’s address. Counsel then refused  
12 to respond to the interrogatories. Counsel’s claim that the address is confidential  
13 information is squarely contradicted by the mandates of Rule 26. Following the Rule  
14 26 conference in this case, Triwolf and Tango refused to comply with the Scheduling  
15 Order since they were settling their disputes with Colonize (and Yellowcake).

16 Colonize has made numerous attempts to serve Palmer individually at one  
17 business address and two residential addresses in the Los Angeles, California, area and  
18 at a residential address in Austin, Texas.

19 Colonize has issued subpoenas to Triwolf and Tango, which will be served  
20 shortly, seeking Palmer’s address. Colonize has Palmer’s email address with Tango.

21 Colonize asserts that it has met the standard for obtaining an order authorizing it  
22 to serve Palmer by publication. Colonize proposes to publish the required information  
23 and documents once a week for four consecutive weeks in the Daily Journal for Los  
24 Angeles, to mail the summons and complaint to the two residential addresses noted  
25 above, and to send them to Palmer by email.

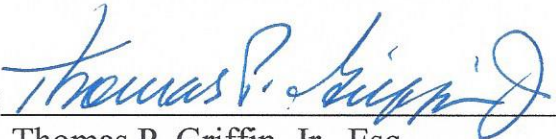
26 In the meantime, if Colonize obtains Palmer’s address as a result of the  
27 subpoenas, Colonize will attempt to serve Palmer at that address.

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1           WHEREFORE, Colonize seeks an order authorizing it to serve the summons  
2 and complaint on Tate A. Palmer by publication as set forth above.

3 Dated: April 19, 2021

**HEFNER STARK & MAROIS, LLP**

4  
5 By: 

6 Thomas P. Griffin, Jr., Esq.

7 Attorneys for Plaintiff

8 Colonize Media, Inc.